

## REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claim 8 has been canceled in this paper. Claims 1, 6 and 9 have been amended in this paper. No new claims have been added in this paper. Accordingly, claims 1-4, 6-7 and 9-13 are pending and are under active consideration.

Claims 1-4 and 6-13 stand rejected under 35 U.S.C. 112, first paragraph, "as failing to comply with the written description requirement." In support of the rejection, the Patent Office states the following:

The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amendment to the claims that is the change from  $\text{g/cm}^2$  to  $\text{g/m}^2$  does not have support in the specification.

Applicant respectfully traverses the subject rejection. The Patent Office is apparently contending that there is no support in the specification for changing  $\text{g/cm}^2$  to  $\text{g/m}^2$  in the claims. In response, Applicant respectfully submits that there is ample support in the specification for the subject change. For example, Applicant refers the Patent Office to the following passage at page 4, lines 2-10, of the present specification:

The basis weight of the nonwoven material, which preferably involves a filament nonwoven material with thermal bonding, may amount to between **12 and 200  $\text{g/m}^2$** , preferably between **50 and 90  $\text{g/m}^2$** , since these values are optimal for mechanical strength and economics. The coating material preferably has a butyl acrylate content of 17 wt. %, with which it can be processed particularly well. The coating weight of the coating material may lie between **10 and 150  $\text{g/m}^2$** , preferably between **20 and 40  $\text{g/m}^2$** . The coating can be made thicker or thinner, depending on whether the protective hood

will serve as a stationary protective hood or is a protective hood used in transport. (Emphasis added.)

Therefore, as can be seen from the above, the specification is not only replete with examples of units expressed in  $\text{g/m}^2$  but also discloses the specific limitations being claimed.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 1-4 and 6-13 stand rejected “under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 2002/0132547A1 issued to Grondin et al.”

In support of the rejection, the Patent Office refers to, among other things, the following passage in paragraphs [0014]-[0016] of Grondin et al.:

A laminate material embodying the principles of the present invention comprises a spunbound, polypropylene nonwoven fabric layer, and a monolithic, polymeric breathable coating applied to the nonwoven fabric layer. The breathable coating exhibits substantial impermeability to liquid water and air, while exhibiting significant permeability to water vapor. These characteristics of the present laminate facilitate its use in building construction, particularly as a barrier “housewrap” for enveloping a building being constructed.

The nonwoven fabric layer of the present laminate material has a basis weight between about 60 and 100 grams/meter<sup>2</sup>, preferably between 75 and 90 grams/meter<sup>2</sup>, and is formed from polypropylene having a viscosity, as measured in melt flow rate (MFR) of between about 6 and 16 MFR, with the range of 8 to 13 MFR being preferable. The polypropylene may include additives selected from the group consisting of ultraviolet stabilizers and thermal stabilizers, with the fabric exhibiting a strip tensile strength of at least about 50 N/cm, machine-direction, and at least about 35 N/cm, cross-direction, when tested in accordance with ASTM method D882, with an initial jaw separation of 10 cm, and a cross head speed of 5 cm/minute.

The polymeric breathable coating of the present laminate material is extrusion-coated on the nonwoven fabric layer, and has a thickness of about 15 to 30 g/meter. The polymeric coating comprises, by weight, from about 35 to 90% of a copolymer selected from the group consisting of ethylmethacrylate (EMA),

ethylbutylacrylate (EBA), and ethylvinylacrylate (EVA), and from about 10 to 65% of a copolyester or thermoplastic elastomer selected from the group of copolyether-ester and copolyester-ester block copolymers. The breathable coating may further comprise one or more additives selected from the group consisting of ultraviolet and thermal stabilizers, polyolefin resin grafted with maleic anhydride, and resin modifier based on ethylene acrylate copolymer. More preferably, the acrylate copolymer is an ethyl methyl acrylate or an ethyl butyl acrylate copolymer having a viscosity of between 3 and 12 MFR, as measured at 190°C and at 2.16 kg. Preferably, the breathable coating may comprise about 10 to 65% of a copolyester block copolymer where the butylene terephthalate hard segments and polyalkylene oxide soft segments alternate. The polymeric coating may also include stability-enhancing and adhesion-enhancing resin modifiers.

In addition to the above, the Patent Office states the following:

Grondin et al teach what is set forth above but do not expressively suggest the property of water permeability nor that their composite is a protective hood. With regard to the properties of water permeability the Examiner is of the position that no other structural or chemical features are claimed which may distinguish the present invention from that of the Grondin et al.'s invention, the presently claimed properties of water permeability are deemed to be inherent to the invention of Grondin et al. The burden is upon Applicant to prove otherwise. Note *In re Fitzgerald* 205 USPQ 495. Without a showing that evidences a difference between the prior art and the present invention, anticipation is proper. In addition, the presently claimed properties of water permeability would have been present once the composite of Grondin et al was provided. Note *In re Best*, 195, USPQ at 433, footnote 4 (CCPA 1977). In other words if structurally and chemically all other limitations have been met than the properties of permeability would also be met. Support of said assumption may be found in the use of similar materials. Grondin et al. use the same polypropylene nonwoven which can be coated with ethylene butyl acrylate, wherein the fabric (basis weight) and the coating weight also fall into the same range as that desired by Applicant, then it is safe to presume that the properties exhibited by such a composite, in this case that of water permeability would be the same also.

With regard to the preambular limitation of the claims, that is, "A protective hood," the Examiner is of the position that; Applicant

has failed to recite definite structure of said hood other than the description given on pages 1 and 5 of the instant specification, which in its broadest interpretation is simply a composite comprising a nonwoven with a coating. Additionally, when relying on the figures it appears to be a tarp, which in turn are generally known in the art to be composed of coated fabrics which are applied to metal substrates such as the surface of a car which is what Applicant envisions; thus the preamble language is not given weight for its intended use. Further, a recitation of intended use of the claimed invention must result in a structural difference between the claimed invention and that of the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim limitations. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Here it is the Examiner's position that the invention of Grondin et al. is capable of being used as a protective hood for automobiles. The Examiner notes that the composite of Grondin et al. is made as a barrier element for building which is the same thing as a tarp for a car. Therefore, a skilled artisan would have found it obvious to employ the composite of Grondin et al. for use as a protective hood, motivated by the reasoned expectation of having a composite, which provides resistance to weather and abrasion.

Applicant respectfully traverses the foregoing rejection. Claim 1, from which claims 2-4, 6-7 and 10-12 depend, has been amended herein and now recites “[p]rotective hood for automobiles comprising a composite material with a support material of nonwoven polypropylene and a coating material of a thermoplastic copolymer, wherein said coating material consists of an ethylene-butyl acrylate copolymer, wherein said coating material is introduced onto the support material by means of extrusion coating, wherein said coating material has a coating weight between 10 and 150 g/m<sup>2</sup> and wherein said composite material has a water-vapor permeability of at least 30 g/m<sup>2</sup>xd.”

Thus amended, claim 1 is neither anticipated by nor rendered obvious over Grondin et al. for at least the reason that Grondin et al. does not teach or suggest, among other things, a coating material of a thermoplastic copolymer that **consists of** an ethylene-butyl acrylate copolymer. Instead, Grondin et al. teaches a coating material that not only includes “about 35 to 90% of a

copolymer selected from the group consisting of ethylmethacrylate (EMA), ethylbutylacrylate (EBA), and ethylvinylacrylate (EVA)” **but also includes** “about 10 to 65% of a copolyester or thermoplastic elastomer selected from the group of copolyether-ester and copolyester-ester block copolymers.” In other words, whereas Grondin et al. teaches the inclusion of copolyether-ester and copolyester-ester block copolymers in the coating material, claim 1 precludes the inclusion of said copolyether-ester and copolyester-ester block copolymers. Therefore, Grondin et al. does not teach or suggest the coating material of claim 1.

Support for the foregoing amendment to claim 1 may be found in the present specification, for example, on page 5, lines 12-13, which provides that “[t]he coating material is an ethylene-butyl acrylate copolymer with a butyl acrylate fraction of 17 wt. %. It contains no additives.”

Claims 2-4, 6-7 and 10-12 recite additional features that further distinguish over Grondin et al. For example, the 17 wt % butyl acrylate content is neither taught nor suggested in Grondin et al.

Claims 9 and 13 are patentable over Grondin et al. for at least the same types of reasons discussed above in connection with claim 1.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

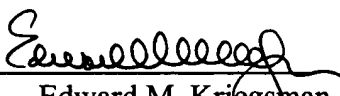
In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

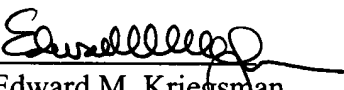
Respectfully submitted,

Kriegsman & Kriegsman

By:   
Edward M. Kriegsman  
Reg. No. 33,529  
665 Franklin Street  
Framingham, MA 01702  
(508) 879-3500

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 25, 2005

  
Edward M. Kriegsman  
Reg. No. 33,529  
Dated: August 25, 2005